

Introduced by Senator Evans

February 18, 2011

An act to amend Section 12926.1 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 631, as introduced, Evans. Insurance Commissioner: compliance: enforcement: funds.

Existing law requires the Insurance Commissioner to require from every insurer in the state full compliance with the provisions of the Insurance Code. Existing law requires that any fines, penalties, fees, and costs resulting from any matter involving compliance with or enforcement of any provisions of the Insurance Code, or other laws involving any entity subject to the jurisdiction of the commissioner, be deposited in the appropriate fund as provided by law. Existing law requires that any funds ordered, or allocated by a settlement, to be used for public outreach, be subject to specified limitations.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12926.1 of the Insurance Code is
- 2 amended to read:
- 3 12926.1. (a) In any matter involving compliance with or
- 4 enforcement of any of the provisions of this code or ~~the~~ any other
- 5 laws of this state involving any entity subject to the jurisdiction

1 or authority of the commissioner, whether the matter is a formal
2 administrative accusation or adjudication, a formal or potential
3 judicial action, or other enforcement tool, and whether or not the
4 matter is settled or prosecuted to resolution, the use of any funds
5 that are imposed as fines or penalties of any sort, or collected by
6 means of settlement, or paid or reserved in any manner as a result
7 of the action, shall be subject to the limitations of this section.

8 (b) Fines, penalties, fees, and costs shall be deposited in the
9 appropriate fund as provided by law.

10 (c) Any funds ordered, or allocated by a settlement, to be used
11 for public outreach of any sort, shall be subject to all of the
12 following limitations:

13 (1) The commissioner's name, likeness, or voice shall not be
14 used in any printed, audio, or visual material that is released either
15 for general distribution or to specific recipients unless a court finds
16 good cause to do so.

17 (2) The message shall be limited to information relevant to the
18 enforcement action or compliance issues that generated the funds.

19 (3) The primary focus of any public outreach where the purpose
20 is to advise members of the public of rights affecting pecuniary or
21 property interests shall be to provide specific information needed
22 by the affected persons to obtain or protect those rights.

23 (4) No funds subject to this subdivision shall be used for general
24 education of the public about insurance issues, except to the extent
25 that the education relates to the type of violations that caused the
26 enforcement or compliance action, and otherwise complies with
27 the limitations of this section.

28 (5) No funds subject to this subdivision shall be spent or
29 otherwise disposed of unless the expenditure or disposal has been
30 approved by a court of competent jurisdiction.

31 (d) (1) This section may be enforced by an affected individual
32 with an interest in the matter or a policyholder of an insurer that
33 is a party to a settlement with the department, a city attorney, a
34 district attorney, or the Attorney General, who may bring an action
35 against the commissioner in the superior court in any county where
36 a violation of this section has occurred.

37 (2) A court may issue injunctions or provide other equitable
38 remedies as appear to the court to be appropriate, and shall order
39 payment by the commissioner from nonpublic funds to a prevailing
40 party who has brought an action under this section of an amount

1 sufficient to compensate the party for all attorneys' fees, costs of
2 litigation, and expenses incurred in bringing and prosecuting the
3 action. For the purposes of this section, "nonpublic funds" does
4 not include assets of an insurer or other party to a settlement that
5 are not part of a valid and voluntary settlement with the department
6 or commissioner.

7 (e) The commissioner may not increase fees or assessments
8 against insurers in order to comply with this section.

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